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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|---|
| Proceeding | 92052197 |
| Party | Defendant Supercar Collectibles Limited |
| Correspondence Address | Supercar Collectibles Limited 11760 Justen Circle Unit E Maple Grove, MN 55369 UNITED STATES |
| Submission | Answer |
| Filer's Name | Heather Kliebenstein |
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| Signature | /Heather Kliebenstein/ |
| Date | 04/23/2010 |
| Attachments | 2010 04 23 Answer.pdf (10 pages)(344678 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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|---------------------------------|---|---------------------------|
| Terri Yenke Gould , Executor, |) | |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | Cancellation No. 92052197 |
| |) | |
| SuperCar Collectibles, Limited, |) | |
| |) | |
| Registrant. |) | |
| _____ |) | |

ANSWER TO PETITION TO CANCEL

Registrant SuperCar Collectibles Limited ("Registrant") for its answer to the petition to cancel filed by Petitioner Terri Yenke Gould ("Petitioner"), denies each allegation of the Petition to Cancel except as is specifically admitted or otherwise qualified below. For its answer to each particular paragraph, Registrant states and alleges as follows:

1. Registrant lacks knowledge or information sufficient to admit or deny the allegations of this Paragraph and therefore denies the same.
2. Registrant admits that U.S. Trademark Registration No. 0,930,794 ("the '794 Registration") was registered by the United States Patent and Trademark Office on March 14, 1972 and became expired in 1992. Registrant lacks knowledge or information sufficient to admit or deny the remaining allegations of this Paragraph and therefore denies the same.
3. Registrant lacks knowledge or information sufficient to admit or deny the allegations of this Paragraph and therefore denies the same.
4. Registrant admits that Mr. James Sullivan applied for and obtained U.S. Trademark Registration No. 2,049,857 ("the '857 Registration"). The application was filed on July 26, 1995, and registered April 1, 1997. Registrant admits that Mr. Sullivan assigned the

'857 Registration to SuperCar Collectibles Limited on or about March 15, 1998. Registrant denies the remaining allegations of this Paragraph.

5. Registrant admits the replica car shown in Paragraph 5 is sold under the authority of Registrant, but denies the remaining allegations of this Paragraph.

6. Registrant admits that it has granted a license to third parties to use the subject matter of the '857 Registration and that the picture shown in Paragraph 6 appears to be a model made by a licensed third party. Registrant denies the remaining allegations of this Paragraph.

7. Registrant denies the allegations of this Paragraph.

8. Registrant denies the allegations of this Paragraph.

9. Registrant denies the allegations of this Paragraph.

FIRST AFFIRMATIVE DEFENSE

Petitioner's Petition to Cancel fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioner, the Estate and Heirs of Donald Frank Yenke, lacks standing to bring the claims asserted in the Petition to Cancel.

THIRD AFFIRMATIVE DEFENSE

Petitioner's Petition to Cancel is barred by the doctrine of abandonment. Petitioner's alleged predecessors-in-interest, Mr. Donald Yenke and/or Yenke Sportscars, Inc., claim to have owned the '795 Registration for "YENKE & Design." This mark was registered on March 14, 1972 but expired in 1992, well before Registrant filed the application that became the '857 Registration. Petitioner's predecessors-in-interest abandoned the '794 Registration and all trademark rights in the subject matter of the '794 Registration due to lack of use or deliberate renunciation of any rights in the '794 Registration. In addition, Petitioner's non-use of the

YENKO name as a trademark in connection with sale of any goods in interstate commerce for more than five years constitutes abandonment of any trademark rights that were allegedly once owned in the mark. Moreover, Petitioner has abandoned any rights that were allegedly once owned in the mark because it failed to police its alleged rights in the mark. Consequently, numerous unrelated third parties have also used and registered the YENKO mark for various goods and services without challenge by Petitioner.

FOURTH-SIXTH AFFIRMATIVE DEFENSES

Petitioner's requested relief is barred by the equitable doctrines of laches, waiver and/or acquiescence. Petitioner has been on notice of the use and registration of the '857 Registration since 1996. The application that became the '857 Registration was published for opposition on March 5, 1996. The '857 Registration was registered on the Principal Register on April 1, 1997. Today, the '857 Registration is valid and incontestable pursuant to 15 U.S.C. § 1065. Registrant has continuously, openly and notoriously used the YENKO Mark shown in the '857 Registration since October 22, 1996.

Petitioner, despite being on notice of the '857 Registration and Registrant's use of the same, did not seek to cancel the '857 Registration until March 11, 2010. Petitioner's fourteen (14) year delay in asserting its alleged trademark rights is presumptively inexcusable and unreasonable.

In addition, numerous unrelated third parties have used and registered the YENKO mark without the consent of Petitioner. Examples of third party YENKO registrations include: Registration Nos. 3,161,668, 3,097,652, 3,779,462, 3,585,627 and 2,314,585. Printouts of these registrations from the United States Patent & Trademark Office electronic database are attached hereto as Exhibit A. Given the numerous registrations owned by parties other than Petitioner for

the YENKO mark, Petitioner has failed to adequately police its alleged rights in the mark and therefore cannot now claim exclusive rights that can be asserted against Registrant.

Awarding Petitioner its requested relief will significantly prejudice Registrant. Since 1996, Registrant has invested heavily in the marketing and promotion of the YENKO Mark in connection with Registrant's goods. As a result, Registrant's YENKO Mark has achieved substantial recognition and goodwill in connection with Registrant's goods. These investments, and the resulting goodwill, shall be lost if the '857 Registration is canceled based on Petitioner's belated claim of alleged false connection and infringement under the Lanham Act. Registrant would not have made these investments if Petitioner had raised its alleged claims at the time Registrant applied for the '857 Registration or began use of the YENKO Mark in 1996.

In conclusion, Petitioner has unreasonably failed to take any action against Registrant or its use of the '857 Registration for more than fourteen (14) years. Registrant will be harmed if Petitioner's requested relief is granted. Accordingly, Registrant's present petition should be barred by the equitable doctrines of laches, waiver and/or acquiescence.

Respectfully submitted,

SUPERCAR COLLECTIBLES LIMITED

Date: April 23, 2010

By:


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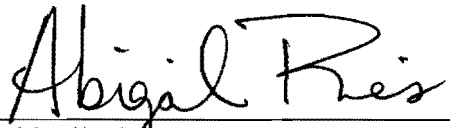
(612) 332-5300

Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2010, a true copy of the foregoing Answer to Petition to Cancel was served by first-class mail, postage prepaid, upon counsel for Petitioner:

George E. Bullwinkel
425 Woodside Avenue
Hinsdale, IL 60521



Abigail Ries

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,314,585

United States Patent and Trademark Office

Registered Feb. 1, 2000

**SERVICE MARK
PRINCIPAL REGISTER**

YENKO

CLASSIC CAMARO, INC. (CALIFORNIA CORPORATION)
17832 GOTHARD
HUNTINGTON BEACH, CA 92647

FOR: MAIL ORDER CATALOGUE SERVICES FEATURING PARTS AND ACCESSORIES FOR THE RESTORATION OF CLASSIC AUTOMOBILES; WHOLESALE DISTRIBUTORSHIPS FEATURING PARTS

AND ACCESSORIES FOR THE RESTORATION OF CLASSIC AUTOMOBILES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-1-1997; IN COMMERCE 4-1-1997.

SER. NO. 75-639,497, FILED 2-8-1999.

KAREN K. BUSH, EXAMINING ATTORNEY

Int. Cls.: 12, 16, 21 and 25

**Prior U.S. Cls.: 2, 5, 13, 19, 21, 22, 23, 29, 30, 31, 33,
35, 37, 38, 39, 40, 44 and 50**

United States Patent and Trademark Office

Reg. No. 3,585,627

Registered Mar. 10, 2009

**TRADEMARK
PRINCIPAL REGISTER**



GENERAL MARKETING CAPITAL, INC. (CALI-
FORNIA CORPORATION)
14700 HOOVER STREET
WESTMINSTER, CA 92683

FOR: METAL PARTS FOR MOTOR VEHICLES,
NAMELY, DECORATIVE METAL AUTOMOTIVE
EMBLEMS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35
AND 44).

FIRST USE 12-20-1991; IN COMMERCE 12-20-1991.

FOR: DECALS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23,
29, 37, 38 AND 50).

FIRST USE 1-16-1991; IN COMMERCE 1-16-1991.

FOR: GLASS MUGS, IN CLASS 21 (U.S. CLS. 2, 13,
23, 29, 30, 33, 40 AND 50).

FIRST USE 12-11-2007; IN COMMERCE 12-11-2007.

FOR: CLOTHING, NAMELY, T-SHIRTS AND
CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-26-1996; IN COMMERCE 1-2-1997.

OWNER OF U.S. REG. NOS. 2,314,585, 3,097,652,
AND 3,161,668.

THE MARK CONSISTS OF ASTYLIZED KEY-
STONE/SHIELD DESIGN WITH STARS AT THE
TOP, VERTICAL STRIPES AT THE BOTTOM AND
THE WORD "YENKO."

SER. NO. 77-386,059, FILED 1-31-2008.

JACLYN KIDWELL, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

YENKO

Reg. No. 3,779,462

Registered Apr. 20, 2010

Int. Cls.: 12, 21, and 25

TRADEMARK

PRINCIPAL REGISTER

GENERAL MARKETING CAPITAL, INC. (CALIFORNIA CORPORATION)
14700 HOOVER STREET
WESTMINSTER, CA 92683

FOR: AUTOMOTIVE VEHICLE PARTS, NAMELY, ORNAMENTATION IN THE NATURE OF DECORATIVE METAL EMBLEMS, HOODS, EXTERIOR TRIM, REAR SPOILERS, BODY PANELS, BADGES AND ENGINE VALVE COVERS; AUTOMOTIVE VEHICLE INTERIOR PARTS, NAMELY, STEERING WHEELS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 7-31-1991; IN COMMERCE 12-20-1991.

FOR: DRINKING GLASSES AND MUGS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 11-8-2007; IN COMMERCE 11-8-2007.

FOR: CLOTHING, NAMELY, SHIRTS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 7-15-1996; IN COMMERCE 8-27-1996.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

OWNER OF U.S. REG. NOS. 2,314,585, 3,097,652, AND 3,161,668.

SN 77-978,779, FILED 4-24-2008.

JACLYN KIDWELL WALKER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

United States Patent and Trademark Office

Reg. No. 3,097,652

Registered May 30, 2006

**TRADEMARK
PRINCIPAL REGISTER**

YENKO

CLASSIC CAMARO INC. (CALIFORNIA CORPORATION)

18460 GOTHARD STREET

HUNTINGTON BEACH, CA 92648

FOR: AUTOMOBILES AND AUTOMOTIVE PARTS AND ACCESSORIES, NAMELY, WHEEL CAPS, SPOILERS AND EMBLEMS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 4-1-1997; IN COMMERCE 4-1-1997.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,314,585.

SEC. 2(F).

SER. NO. 78-569,598, FILED 2-17-2005.

STANLEY I. OSBORNE, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,161,668

Registered Oct. 24, 2006

**TRADEMARK
PRINCIPAL REGISTER**

YENKO

CLASSIC CAMARO INC. (CALIFORNIA CORPORATION)

18460 GOTHARD STREET

HUNTINGTON BEACH, CA 92648

**FOR: USE WITH CLOTHING AND HEADWEAR
ASSESSORIES, NAMELY SHIRTS, JACKETS AND
CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).**

FIRST USE 4-1-1997; IN COMMERCE 4-1-1997.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

OWNER OF U.S. REG. NO. 2,314,585.

SEC. 2(F).

SER. NO. 78-569,618, FILED 2-17-2005.

SEAN DWYER, EXAMINING ATTORNEY